

Attorney Docket Number: 6773USD1

Filing Date: 11/20/01

REMARKS

Applicant hereby submits the above amendments to the claims, wherein Applicant believes that the above amendments place the claims in condition for allowance and respectfully requests reconsideration thereof.

The 35 U.S.C. §112 Rejection, Claims 14 and 18-21.

Claims 14 and 18-21 were rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, more specifically, it was stated in the above-referenced Official Action that with respect to claim 14, "the end of the first body duct," an unpatentable part of the human body is claimed as a structural part of the invention.

Applicant hereby submits the above amendments to the claims, wherein Applicant believes that the above amendments place the claims in condition for allowance by amending the claims to recite that the device is configured to receive the end of the first body duct, thereby removing part of the human body as a structural part of the invention. Therefore, Applicant respectfully requests that the 35 U.S.C. §112 rejection be withdrawn and the application be advanced to allowance.

The 35 U.S.C. §103(a) Rejection, Claims 1-4, 10-11, 15, 37-38, and 62.

Claims 1-4, 10-11, 15, 37-38, and 62 were rejected under 35 U.S.C. §103(a) as being unpatentable over McDonald (5,824,010). It was stated in the Office Action referenced above that McDonald '010 discloses the invention substantially as claimed. More particularly it was

Attorney Docket Number: 6773USD1

Filing Date: 11/20/01

stated in the above-referenced Office Action that:

“it would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the needles, so that they passed into the first body duct and into the hold of the second body duct, when the end of the first body duct is on the structure.....Such a procedure would allow guidance of the needles and sutures between adjacent body ducts and completion of an anastomosis.”

Applicant traverses the 35 U.S.C. §103(a) rejection because McDonald '010 does not disclose, suggest or provide and motivation to one of ordinary skill in the art to include a plurality of needles with the needle guide disclosed in McDonald '010. McDonald '010 only discloses a needle guide assembly, wherein a user may utilize the needle guide assembly with a single needle that is provided independently of the needle guide device. As described in detail, the needle guide device of McDonald '010 is designed to be inserted within a vessel, wherein a surgeon would then utilize a needle driver and a single needle to dispose a single suture within a vessel wall, after tracking the needle through one of the needle guides 14a, the surgeon would then track the needle through the second needle guide 14b and so on until the surgeon has disposed a sufficient number of sutures to close the opening or perform an anastomosis procedure. Thus the needle guide device disclosed in McDonald '010 does not suggest that a needle may be integrally disposed or affixed to the needle guide. In fact the opposite is true, wherein it is taught that the needle will be provided independently of the device. This is disclosed in the specification of McDonald '010 wherein it is stated that the needle and suture are provided independently of the device (See McDonald '010 column 1, line 66 to Column 2 line

Attorney Docket Number: 6773USD1

Filing Date: 11/20/01

5).

Referring to the present invention, specifically independent Claim 1, where it is claimed that the device according to the present invention includes a plurality of needles arranged on a structure and configured to be advanced along a plurality of paths. Thus, the present invention teaches away from McDonald '010 in that the present invention provides a device including a plurality of needles. Thus, one of ordinary skill in the art would not be motivated to modify the needle guide device of McDonald '010 to include a plurality of needles or even a single needle because McDonald '010 teaches that needles are to be provided independent of the needle guide described therein.

In view of the arguments above it can be seen that one of ordinary skill would not be motivated by the device described in McDonald '010 to include a plurality of needles because the needle guide device of McDonald '010 does not provide such motivation.

Claims 22 and 23 were further rejected under 35 U.S.C. §103(a) as being unpatentable over McDonald '010 in view of Amarasinghe (4,553,543). Applicant traverses the rejection in that Applicant believes that McDonald '010 does not teach or suggest the present invention as described above. More specifically, Applicant believes that the present rejection is improper because one of ordinary skill in the art would not be motivated to combine the device of McDonald '010 with the device of Amarasinghe '543 because McDonald '010 does not teach, suggest or provide motivation for the combination sought. Specifically, McDonald '010 teaches away from a device that includes a needle therewith. Further still claims 22 and 23 are dependent claims that depend from an allowable independent claim and therefore include all of the

Attorney Docket Number: 6773USD1

Filing Date: 11/20/01

limitations of the allowable independent claim from which they depend.

Conclusion

Applicant believes that in view of the remarks presented above claims 1-39 and 62 are allowable because McDonald '010 fails to teach, suggest or provide motivation to one of ordinary skill in the art to include a needle or a plurality of needles with the device of McDonald '010. Therefore, Applicant respectfully requests that the 35 U.S.C. §103(a) rejection be withdrawn and the application be advanced to allowance. Furthermore, Applicant hereby submits amendments to Claims 14, 18, and 21 wherein Applicant believes that the above amendments place the claims in condition for allowance and respectfully requests that the 35 U.S.C. §112 rejection be withdrawn.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Kelly J. McCrystle at (650) 474-3326.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 01-0025 for any charges that may be due or credit our account for any overpayment.

Respectfully submitted,

23492

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